

Application Serial No. 10/530,113  
Attorney Docket No. 10191/3737  
Reply to Office Action of February 22, 2008

**AMENDMENTS TO THE DRAWINGS:**

The accompanying Replacement Sheet amends Fig. 1. No new matter has been added and support is provided by the present application. Approval and entry are respectfully requested.

Attachment: 1 Replacement Sheet

**REMARKS**

Claims 13, 14 and 15 are added, claims 8 and 10 are canceled without prejudice, and therefore claims 7, 9, 11 and 12 to 15 are now pending.

It is respectfully submitted that all of presently pending claims 7, 9, 11 and 12 to 15 are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for acknowledging the claim for foreign priority, and for indicating that all certified copies of the priority documents have been received.

As suggested, the drawings have been amended. Support is provided by the present application. Approval and entry are respectfully requested.

Claims 7 to 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,188,940 ("Blackburn") in view of U.S. Patent No. 6,341,252 ("Foo").

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

*While the obviousness rejection of previously presented claim 7 may not be agreed with, to facilitate matters*, claim 7 has been rewritten to include the features of claims 8 and

10, which have been canceled without prejudice. Claim 11 now depends from claim 7, since claim 10 has been canceled.

Claim 7, as presented, includes the feature of “an arrangement configured to trigger restraint means as a function of a motion of the vehicle occupant, the arrangement configured to determine, using an occupant detection system and an impact sensor, a height of a center of mass of the vehicle occupant and a force action on the vehicle occupant, and thereby predicts the motion of the vehicle occupant, wherein the occupant detection system is configured to determine a seat position of the vehicle occupant, the arrangement taking the seat position into account in the prediction of the motion, and *wherein the arrangement is configured to determine an upper-body size using the height of the center of mass and the seat position, and takes the upper-body size into account in the prediction of the motion.*”

The “Blackburn” reference does not disclose nor suggest the feature of determining the height of the center of gravity of a vehicle’s occupant, and also does not disclose nor suggest the feature of *determining an upper-body size using the height of the center of mass and the seat position*. Even if the “Foo” reference may refer to determining a position value for particular portions of an occupant, the “Foo” reference does not disclose nor suggest the feature of *determining an upper-body size using the height of the center of mass and the seat position, and taking the upper-body size into account in the prediction of the motion.*

In particular, the “Foo” reference does not refer to predicting the motion of a vehicle occupant, but instead only refers to monitoring the position of the occupant. Second, the “Foo” reference only refers to determining the position of particular portions of the occupant and does not disclose nor suggest determining *an upper-body size*. Therefore, the “Foo” reference does not disclose nor suggest the feature of *determining an upper-body size using the height of the center of mass and the seat position, and takes the upper-body size into account in the prediction of the motion*, as provided for in the context of the claimed subject matter.

Accordingly, claim 7 is allowable, as are its dependent claims 9, 11 and 12.

New claims 13 to 15 do not add any new matter and are supported by the present application, including the specification. Claims 13 to 15 depend from claim 7 and are therefore allowable for at least the same reasons as claim 7.

In summary, all of pending claims 7, 9, 11 and 12 to 15 are allowable.

**Conclusion**

In view of the foregoing, it is respectfully submitted that all pending claims 7, 9, 11 and 12 to 15 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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